



1997 SENATE BILL 278

August 26, 1997 - Introduced by Senators DRZEWIECKI, HUELSMAN, COWLES, A. LASEE, FARROW, DARLING and ROSENZWEIG, cosponsored by Representatives OLSEN, RYBA, WASSERMAN, DOBYNS, HAHN, ZIEGELBAUER, HARSDFORF, OTTE, GOETSCH, KELSO, GREEN, GUNDERSON, GROTHMAN, ROBSON, HUEBSCH, LAZICH, HANSON, STASKUNAS, VRAKAS, LADWIG, HUTCHISON, PLOUFF and POWERS. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

- 1 **AN ACT to repeal** 346.65 (6) (a) 2.; and **to amend** 346.65 (6) (a) 1. and 346.65 (6)
2 (d) of the statutes; **relating to:** seizure of motor vehicles for offenses related to
3 driving while under the influence of an intoxicant.

Analysis by the Legislative Reference Bureau

Under current law, if a person is convicted of driving or operating a motor vehicle while under the influence of an intoxicant (OWI) or refuses to submit to a test to determine his or her blood alcohol concentration and the person has 2 prior OWI-related convictions, suspensions or revocations, the court may order a law enforcement officer to seize a motor vehicle owned by the person. Current law requires the court, if the court does not order a motor vehicle seized in this situation, to order a law enforcement officer to immobilize or equip with an ignition interlock device a motor vehicle owned by the person. Under current law, if a person is convicted of OWI or refuses to submit to a test to determine his or her blood alcohol concentration and the person has 3 or more prior OWI-related convictions, suspensions or revocations, the court is required to order a law enforcement officer to seize a motor vehicle owned by the person.

This bill removes the requirement that the court order a law enforcement officer to seize a motor vehicle owned by a person who is convicted of OWI or refuses to submit to a test to determine his or her blood alcohol concentration when the person has 3 or more prior OWI-related convictions, suspensions or revocations. The court continues to have the option of ordering the seizure of a motor vehicle, but the court is not required to order the seizure under this bill.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.65 (6) (a) 1. of the statutes is amended to read:

2 346.65 (6) (a) 1. Except as provided in this paragraph, the court may order a
3 law enforcement officer to seize a motor vehicle, or, if the motor vehicle is not ordered
4 seized, shall order a law enforcement officer to equip the motor vehicle with an
5 ignition interlock device or immobilize any motor vehicle owned by the person whose
6 operating privilege is revoked under s. 343.305 (10) or who committed a violation of
7 s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a) or (b) or 940.25 (1) (a) or (b) if
8 the person whose operating privilege is revoked under s. 343.305 (10) or who is
9 convicted of the violation has 2 or more prior suspensions, revocations or convictions
10 within a 10-year period that would be counted under s. 343.307 (1). The court shall
11 not order a motor vehicle equipped with an ignition interlock device or immobilized
12 if that would result in undue hardship or extreme inconvenience or would endanger
13 the health and safety of a person.

14 **SECTION 2.** 346.65 (6) (a) 2. of the statutes is repealed.

15 **SECTION 3.** 346.65 (6) (d) of the statutes is amended to read:

16 346.65 (6) (d) At the hearing set under par. (c), the state has the burden of
17 proving to a reasonable certainty by the greater weight of the credible evidence that
18 the motor vehicle is a motor vehicle owned by a person who committed a violation of
19 s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a) or (b) or 940.25 (1) (a) or (b) and,
20 if the seizure is under par. (a) 1., that the person had 2 or more prior convictions,
21 suspensions or revocations within a 10-year period as counted under s. 343.307 (1)

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1 ~~or, if the seizure is under par. (a) 2., 3 or more prior convictions, suspensions or~~
2 ~~revocations within a 10-year period as counted under s. 343.307 (1). If the owner of~~
3 ~~the motor vehicle proves by a preponderance of the evidence that he or she was not~~
4 ~~convicted of a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a) or (b)~~
5 ~~or 940.25 (1) (a) or (b), or, if the seizure is under par. (a) 1., that he or she did not have~~
6 ~~2 or more prior convictions, suspensions or revocations within a 10-year period as~~
7 ~~counted under s. 343.307 (1) or, if the seizure is under par. (a) 2., 3 or more prior~~
8 ~~convictions, suspensions or revocations within a 10-year period as counted under s.~~
9 ~~343.307 (1), the motor vehicle shall be returned to the owner upon the payment of~~
10 storage costs.

SECTION 4. Initial applicability.

11 (1) This act first applies to offenses committed on the effective date of this
12 subsection, but does not preclude the counting of other violations as prior
13 convictions, suspensions or revocations for purposes of administrative action by the
14 department of transportation, sentencing by a court or revocation or suspension of
15 operating privileges.
16

17 (END)